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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/620,520	07/20/2000	Dorothy B. Franks	GEMS:0091	2920

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Patrick S Yoder  
Suite 330  
7915 FM 1960 West  
Houston, TX 77070

06/03/2003

EXAMINER

SOTOMAYOR, JOHN

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/620,520

Applicant(s)

FRANKS ET AL.

Examiner

John L Sotomayor

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Communication***

1. In response to the communication filed March 24, 2003, claims 1-28 are pending.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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2. Claims 1,8-10,23, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Callahan (US 6,416,328 B1) for the reasons set forth in the prior Office Action (see Paper No. 2) and incorporated herein.

3. Claims 2-7,11-22, and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Callahan in view of Linberg et al (US 6,497,655 B1) for the reasons set forth in the prior Office Action (see Paper No. 2) and incorporated herein.

### ***Response to Arguments***

4. Applicant's arguments filed March 24, 2003 have been fully considered but they are not persuasive.

5. Regarding claims 1, 23 and 28, the reference cited, Callahan (US 6,416,328) discloses or suggests each element of claim 1 as set forth in the previous action (see Paper No. 2). The following comments are provided for further clarity in the record. Applicant's representative puts forth the claim that the examiner admitted that the reference does not disclose operation data. The examiner respectfully points out that the previous action states that the reference does disclose operation data. Examiner's action states that the Callahan reference does not specifically disclose that the operation data is collected from biomedical equipment components on page 3, lines 4-5 of the previous action. However, the reference does later teach that maintenance or janitorial crews are assessed for training needs regarding the maintenance of biomedical equipment, therefore the reference does disclose or suggest all elements of the claim and the argument set forth is not persuasive.

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6. Applicant's representative also sets forth the argument that the Callahan reference does not disclose collecting operation data, analyzing the operation data and identifying training need based upon the analyzed operational parameter. However, column 2, lines 38-56 disclose collection of "start/completion date, objective and performance goal" data, alerting an "individual responsible for the execution of at least a portion of the process upon the presence of a predetermined condition" as well as analyzing whether the performance goal has been met, and column 2, lines 9-11 disclose obtaining "the necessary item of data from the data storage means to provide training to the at least one employee for the at least one process". Thus the argument set forth that the reference does not disclose or suggest the claimed subject matter is not persuasive.

7. Further regarding claim 23, the argument that identifying equipment by logical groups and analyzing operation by logical groups is not disclosed or suggested by the Callahan reference is not persuasive.. Callahan, in column 7, lines 18-57, shows that equipment training needs are analyzed for maintenance and janitorial crews, and even doctors, and that information about training needs for this equipment is stored in the computerized storage means. It is inherent to identify equipment through equipment tags and groupings in order to provide keys for retrieving equipment information and for the analysis of what employees require training on what types of equipment. The reference also suggests, in naming doctors as possible trainees, that biomedical equipment is one grouping of equipment for which training needs are assessed.

8. Regarding claim 15, the references cited, Callahan (US 6,416,328) in view of Linberg et al (US 6,497,655) disclose or suggest each element of claim 15 as set forth in the previous action (see paper #2, page 5). The argument that identifying equipment by logical groups and

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analyzing operation by logical groups is not disclosed or suggested by the Callahan reference is not persuasive. Callahan, in column 7, lines 18-57 and Linberg et al, Col 9, lines 19-30, shows that data is collected concerning medical equipment status and that equipment training needs are analyzed for maintenance and janitorial crews, and even doctors, and that information about training needs for this equipment is stored in the computerized storage means. It is inherent to identify equipment through equipment tags and groupings in order to provide keys for retrieving equipment information and for the analysis of what employees require training on what types of equipment.

9. The motivation to combine these two references lies in the desire of equipment manufacturers to provide training services to clients who purchase their equipment and in the clients identified need for training based upon operational data collected within the facility that shows a training need among maintenance and janitorial crews, and doctors. Combining the system disclosed by Callahan with the teaching of Linberg et al produces a system whereby greater communication is fostered between suppliers and purchasers of health related equipment, including biomedical equipment, to alleviate training deficits among staff users of the identified equipment.

10. The arguments set forth for the remainder of the claims are based upon the arguments for the independent claims, which are answered in the previous office action (see Paper No. 2), and are not persuasive.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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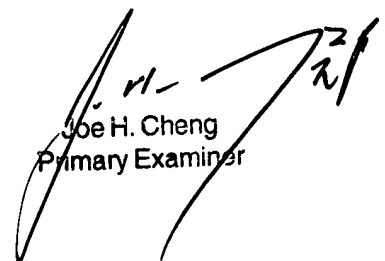
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L Sotomayor whose telephone number is 703-305-4558. The examiner can normally be reached on 6:30-4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-8361 for regular communications and 703-746-8361 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4558.

jls  
May 30, 2003

  
Joe H. Cheng  
Primary Examiner